

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

FLOYD SCOTT,

Plaintiff,

v.

ADVENTIST HEALTH BAKERSFIELD,  
et al.,

Defendants.

Case No.: 1:22-cv-01334-KES-CDB

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS TO DISMISS THIS  
ACTION FOR PLAINTIFF'S FAILURE TO  
STATE A CLAIM UPON WHICH RELIEF  
CAN BE GRANTED

(Doc. 12)

Plaintiff Floyd Scott is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 19, 2024, the assigned magistrate judge issued findings and recommendations to dismiss this action for plaintiff's failure to state a claim upon which relief can be granted. Doc. 12. Objections were to be filed within 14 days. *Id.* at 22. Plaintiff filed timely objections on May 3, 2024, and filed additional objections on October 17, 2024. Docs. 13, 15.

In accordance with 28 U.S.C. § 636(b)(1), the court conducted a de novo review of this case. In his timely objections, plaintiff argues that the incident where he fell from the wheelchair was caused by the hospital employee defendants and that the failure to treat the injury at the time of the incident caused a lifelong injury. Doc. 13 at 4, 9. Plaintiff also argues that the defendants interfered with his access to the court. *Id.* at 17-18. Plaintiff asks that his allegations be liberally construed and that he be afforded leave to file a third amended complaint. *Id.* at 9. Plaintiff filed

1 additional objections on October 17, 2024, in which he restates his argument that the defendants  
2 were deliberately indifferent to his serious medical needs and asks the court for leave to amend.  
3 Doc. 15.

4 Plaintiff's objections do not undermine the magistrate judge's analysis and largely repeat  
5 many of the same allegations that the magistrate judge found to not be cognizable. Plaintiff has  
6 been afforded leave to amend his complaint twice and has not been able to sufficiently state a  
7 claim for which relief can be granted. The court agrees with the magistrate judge that further  
8 leave to amend would be futile.

9 In his objections, alternatively, plaintiff asks that the court remand this action to the  
10 Superior Court of Bakersfield. Doc. 13 at 18-19. However, "federal tribunals lack authority to  
11 remand to the state court system an action initiated in federal court." *Levin v. Com. Energy, Inc.*,  
12 560 U.S. 413, 428 (2010). As this case was initiated in federal court, the court cannot remand this  
13 action to state court.

14 Having reviewed the file, including plaintiff's objections, the court finds the findings and  
15 recommendations to be supported by the record and proper analysis.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The findings and recommendations issued on April 19, 2024, Doc. 12, are ADOPTED  
18 in full;  
19 2. This action is DISMISSED without leave to amend for plaintiff's failure to state a  
20 claim upon which relief can be granted; and  
21 3. The Clerk of the Court is directed to terminate any pending motions or deadlines and  
22 to CLOSE this case.

23  
24  
25 IT IS SO ORDERED.

26 Dated: October 21, 2024

  
UNITED STATES DISTRICT JUDGE